

AMENDED IN SENATE APRIL 18, 2005

AMENDED IN SENATE MARCH 31, 2005

**SENATE BILL**

**No. 608**

**Introduced by Senator Escutia**

February 22, 2005

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An act to amend Sections 309.5 and 321 of, and to repeal Section 321.5 of, the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 608, as amended, Escutia. Public Utilities Commission: Division of Ratepayer Advocates: office of the public advisor.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities and can establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. Existing law establishes a division, known as the Office of Ratepayer Advocates, within the commission to represent the interests of public utility customers and subscribers within the jurisdiction of the commission. Existing law requires the commission to provide personnel and resources to the division sufficient to ensure that customer and subscriber interests are fairly represented in all significant commission proceedings.

This bill would rename the Office of Ratepayer Advocates as the Division of Ratepayer Advocates and would provide that the purpose of the division is to represent and advocate on behalf of the interests of public utility customers and subscribers in the state. The bill would require the commission to provide personnel and resources to the division, *including attorneys and other legal support*, sufficient to ensure that customer and subscriber interests are effectively represented in all significant proceedings and forums. *The bill would*

*authorize the director of the division to appoint a lead attorney to represent the division.*

(2) Existing law requires the commission to establish an office of the public advisor to assist members of the public and ratepayers who desire to testify before or present information to the commission in any hearing or proceeding of the commission open to the public. Existing law requires a separate office of the public advisor in the Los Angeles office of the commission, staffed by a minimum of 3 employees.

This bill would delete the requirement that the office of the public advisor in the Los Angeles office of the commission have a minimum of 3 employees. The bill would state that the purpose of the office of the public advisor is to assist members of the public and ratepayers who desire to testify before or present information to the commission in any hearing or proceeding of the commission. The bill would require the public advisor to publicize the commission's programs for encouraging and supporting participation in the commission's proceedings.

(3) Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Because the bill would expand the entities from which the Division of Ratepayer Advocates can request information, including unregulated affiliates of public utilities and exempt wholesale generators, this bill would impose a state-mandated local program by expanding the definition of a crime.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

1 (a) It is the intent of the Legislature to ensure the protection  
2 and advancement of ratepayer interests with respect to public  
3 utility matters.

4 (b) The Office of Ratepayer Advocates is an independent  
5 division of the Public Utilities Commission that advocates solely  
6 on behalf of public utility ratepayers.

7 (c) The goal of the Office of Ratepayer Advocates is to  
8 advocate on behalf of ratepayers to obtain the lowest possible  
9 rates for public utility service consistent with safe and reliable  
10 service levels, and to ensure that utility customers have access to  
11 the best possible information about their options and choices.

12 (d) In order to support this goal, it is necessary to clarify the  
13 role of the Office of Ratepayer Advocates and to provide it with  
14 the necessary tools to accomplish its goal.

15 SEC. 2. Section 309.5 of the Public Utilities Code is amended  
16 to read:

17 309.5. (a) There is within the commission a Division of  
18 Ratepayer Advocates to represent and advocate on behalf of the  
19 interests of California public utility customers and subscribers .  
20 The goal of the division shall be to obtain the lowest possible rate  
21 for service consistent with reliable and safe service levels. For  
22 revenue allocation and rate design matters, the division shall  
23 primarily consider the interests of residential and small  
24 commercial customers.

25 (b) The director of the division shall be appointed by and serve  
26 at the pleasure of the Governor, subject to confirmation by the  
27 Senate. The director shall annually appear before the appropriate  
28 policy committees of the Assembly and the Senate to report on  
29 the activities of the division.

30 (c) The director shall develop a budget for the division which  
31 shall be subject to final approval of the commission. In  
32 accordance with the approved budget, the commission shall, by  
33 rule or order, provide for the assignment of personnel to, and the  
34 functioning of, the division. The division may employ experts  
35 necessary to carry out its functions. Personnel and resources ~~shall~~  
36 ~~be provided, including attorneys and other legal support, shall be~~  
37 *provided by the commission* to the division at a level sufficient  
38 to ensure that customer and subscriber interests are effectively  
39 represented in all significant proceedings and forums. The  
40 director may appoint ~~an~~ *a lead* attorney who shall represent the

1 division, and shall report to and serve at the pleasure of the  
2 director. *All attorneys assigned by the commission to perform*  
3 *services for the division shall report to and be directed by the*  
4 *lead attorney appointed by the director.*

5 (d) The commission shall develop appropriate procedures to  
6 ensure that the existence of the division does not create a conflict  
7 of roles for any employee. The procedures shall include, but shall  
8 not be limited to, the development of a code of conduct and  
9 procedures for ensuring that advocates and their representatives  
10 on a particular case or proceeding are not advising  
11 decisionmakers on the same case or proceeding.

12 (e) The division may compel the production or disclosure of  
13 any information it deems necessary to perform its duties from  
14 any entity regulated by the commission, provided that any  
15 objections to any request for information shall be decided in  
16 writing by the assigned commissioner or by the president of the  
17 commission, if there is no assigned commissioner.

18 (f) There is hereby created the Public Utilities Commission  
19 Ratepayer Advocate Account in the General Fund. Moneys from  
20 the Public Utilities Commission Utilities Reimbursement  
21 Account in the General Fund shall be transferred in the annual  
22 Budget Act to the Public Utilities Commission Ratepayer  
23 Advocate Account. The funds in the Public Utilities Commission  
24 Ratepayer Advocate Account shall be utilized exclusively by the  
25 division in the performance of its duties as determined by the  
26 director. The director shall annually submit a staffing report  
27 containing a comparison of the staffing levels for each five-year  
28 period.

29 (g) On or before January 10 of each year, the commission shall  
30 provide to the chairperson of the fiscal committee of each house  
31 of the Legislature and to the Joint Legislative Budget Committee  
32 all of the following information:

33 (1) The number of personnel years assigned to the Division of  
34 Ratepayer Advocates.

35 (2) The total dollars expended by the Division of Ratepayer  
36 Advocates in the prior year, the estimated total dollars expended  
37 in the current year, and the total dollars proposed for  
38 appropriation in the following budget year.

39 (3) Workload standards and measures for the Division of  
40 Ratepayer Advocates.

1 (h) The division shall meet and confer in an informal setting  
2 with a regulated entity prior to issuing a report or pleading to the  
3 commission regarding alleged misconduct, or a violation of a law  
4 or a commission rule or order, raised by the division in a  
5 complaint. The meet and confer process shall be utilized in good  
6 faith to reach agreement on issues raised by the division  
7 regarding any regulated entity in the complaint proceeding.

8 SEC. 3. Section 321 of the Public Utilities Code is amended  
9 to read:

10 321. (a) The commission shall establish an office of the  
11 public advisor and shall appoint a public advisor, including a  
12 separate office in the Los Angeles office of the commission. The  
13 commission may employ staff as necessary to carry out the duties  
14 of the office of the public advisor. The office of the public  
15 advisor shall assist members of the public and ratepayers who  
16 desire to testify before or present information to the commission  
17 in any hearing or proceeding of the commission. The public  
18 advisor shall advise the commission on procedural matters  
19 relating to public participation in proceedings of the commission.

20 (b) The public advisor and executive director shall publicize  
21 the commission's programs for encouraging and supporting  
22 participation in the commission's proceedings.

23 SEC. 4. Section 321.5 of the Public Utilities Code is repealed.

24 SEC. 5. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the  
29 penalty for a crime or infraction, within the meaning of Section  
30 17556 of the Government Code, or changes the definition of a  
31 crime within the meaning of Section 6 of Article XIII B of the  
32 California Constitution.